

# Chapter 1500 Design Patents

- 1501 Rules Applicable
- 1502 Definition of a Design
- 1503 Elements of a Design Application
  - 1503.01 Specification and Claim
  - 1503.02 Drawing
- 1504 Examination
- 1505 Allowance and Term of Design Patent
- 1506 Foreign Filing Dates

The right to a patent for a design stems from:

*35 U.S.C. 171. Patents for designs.* Whoever invents any new, original and ornamental design for an article of manufacture may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for designs, except as otherwise provided.

## 1501 Rules Applicable [R-20]

*Rule 151. Rules applicable.* The rules relating to applications for patents for other inventions or discoveries are also applicable to applications for patents for designs except as otherwise provided.

Rules 152-155, which relate only to design patents, are reproduced in the sections of this chapter.

## 1502 Definition of a Design

The design of an object consists of the visual characteristics or aspects displayed by the object. It is the appearance presented by the object which creates an impression, through the eye upon the mind of the observer.

As a design is manifested in appearance the subject matter of a design application may relate to the configuration or shape of an object, to the surface ornamentation thereof, or both.

A design is inseparable from the object and cannot exist alone merely as a scheme of surface ornamentation. It must be a definite, preconceived thing, capable of reproduction and not merely the chance result of a method.

## 1503 Elements of a Design Application [R-35]

A design application has essentially the elements required of an application for a patent

for a "mechanical" invention or discovery (see Chapter 600). However, unlike the latter where a preamble to the specification is no longer required, a preamble still remains a requirement in a design application (rule 154).

If the single signature form is used it must be accompanied by a separate sheet of specification which includes a preamble.

In design applications, in addition to the instruction set forth in §§ 605.04 to 605.05(a) pertaining to signature and name, if the name is typewritten without the middle initial or name, but the signature contains the middle initial or name, amendment should be required that the typewritten name conform with applicant's signature.

## 1503.01 Specification and Claim [R-35]

*Rule 153. Title, description and claim, oath or declaration.* (a) The title of the design must designate the particular article. No description, other than a reference to the drawing, is ordinarily required. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

(b) The oath or declaration required of the applicant must comply with rule 65 except that the period of twelve months specified therein with respect to foreign applications is six months in the case of designs.

*Rule 154. Arrangement of specification.* The following order of arrangement should be observed in framing design specifications:

- (a) Preamble, stating name of the applicant and title of the design.
- (b) Description of the figure or figures of the drawing.
- (c) Description, if any.
- (d) Claim.
- (e) Signature of applicant. (See rule 57.)

If applicant is entitled under 35 U.S.C. 120 to the benefit of an earlier U.S. filing date, the statement that, "This is a division [continuation, continuation-in-part] of design application Serial No. \_\_\_\_\_, filed \_\_\_\_\_," should appear immediately before the claim heading.